

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DANIEL F. HERRERA,

Plaintiff,

v.

KATHERINE CROSSLAND and
GEICO INDEMNITY INSURANCE COMPANY,

Defendant.

NOTICE OF REMOVAL

COMES NOW, the Defendant, GEICO Indemnity Insurance Company, (the correct name is "Government Employees Insurance Company", hereinafter GEICO) by and through its undersigned attorneys, Simone, Roberts & Weiss, P.A., by Stephen M. Simone and Meena H. Allen, and hereby files its Notice of Removal and in support thereof state the following:

1. Plaintiff commenced this lawsuit by filing his Complaint as Daniel F. Herrera, Plaintiff, versus Kathrine Crossland and GEICO Indemnity Insurance Company, in the Eighth Judicial District Court, County of Taos, State of New Mexico, as Cause Number CV 2010-564.
2. Plaintiff's lawsuit is a civil action which alleges that Plaintiff was injured in an automobile accident with Defendant Kathrine Crossland, which occurred on March 18, 2008, in the City of Taos, County of Taos, State of New Mexico. At the time of the aforescribed accident, Defendant Crossland was insured with GEICO and said policy provided liability coverage in the amount of \$300,000.00. Plaintiff alleges that he was injured as the result of the negligence of Ms. Crossland, and he, through counsel, has asserted medical bills close to \$100,000.00. True and correct copies of the documents filed and served by Plaintiff in the Eighth Judicial District are attached hereto as a group, as Exhibit A.

3. Defendant GEICO was served through the Superintendent of Insurance who accepted service on behalf of GEICO, on December 3, 2010. Therefore, removal is timely.

4. The matters in controversy exceed the sum or value of \$75,000.00, exclusive of interest and costs. Specifically, the Plaintiff has made a demand for the policy limits of \$300,000.00.

5. To confer subject matter jurisdiction on this Court based on diversity of citizenship, the amount in controversy must exceed the sum or value of \$75,000.00, exclusive of interest and cost. 28 U.S.C. §1332(a). Where a complaint does not contain dispositive allegations of the amount in controversy, the jurisdictional amount is determined by the allegations in the underlying complaint. *See e.g., Laughlin v. Kmart Corp*, 50 p.3d, 871, 873 (10th Cir. 1995).

6. Defendant GEICO is a foreign corporation incorporated in the State of Maryland, with its principal place of business in Maryland.

7. Defendant Crossland is a resident of Key West, Florida.

8. Upon information and belief, Plaintiff is a residents of Arroyo Hondo, Taos County of New Mexico.

9. There is diversity of citizenship between Plaintiff and Defendant GEICO as well as Defendant Crossland, pursuant to 28 U.S.C. §1332(a).

10. In accordance with 28 U.S.C. §1446(a), copies of process, pleadings, and orders served upon Defendant GEICO in this action are attached hereto.

11. A copy of Defendant GEICO's Notice of Filing of Removal, filed with the Eighth Judicial District Court, County of Taos, is attached hereto as Exhibit B.

12. Defendant Crossland through her undersigned attorney, concurs in this removal.

WHEREFORE, Defendant GEICO gives notice that this case is removed from the Eighth Judicial District Court, County of Taos, State of New Mexico, to the United States District Court for

the District of New Mexico.

SIMONE, ROBERTS & WEISS, P.A.

/s/
STEPHEN M. SIMONE
MEENA H. ALLEN
Attorneys for Defendant GEICO
11200 Lomas Blvd., N.E., Suite 210
Albuquerque, New Mexico 87112
(505) 298-9400

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of December, 2010, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing and/or addressed as follows:

William E. Frazier, Esq.
Kerry J. Morris, Esq.
ABQ Law Clinic/Morris Law Firm PA
901 Lomas Blvd NW
Albuquerque, NM 87102-1953
(505) 842-1363
b0f@frazierfamilylaw.net
www.abqlawclinic.com

STEPHEN M. SIMONE